

JOURNAL OF THE SENATE

EIGHTY-SEVENTH SESSION

TWENTY-THIRD DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, February 16, 2012

The Senate convened at 1:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Brad Urbach, followed by the Pledge of Allegiance led by Senate page Tessa Stoltenburg.

Roll Call: All members present except Sens. Hundstad, Krebs, and Nygaard who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-second day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Bob Gray, Chair

Which motion prevailed.

1

2

3

5

6

9

11

12

15

16

19

20

21

22

23

25

Respectfully submitted,
Ryan Maher, Vice Chair

1 Also MR. PRESIDENT:

2 The Committee on Judiciary respectfully reports that it has had under consideration
3 HB 1050, 1064, and 1212 and returns the same with the recommendation that said bills do pass.

4 Also MR. PRESIDENT:

5 The Committee on Judiciary respectfully reports that it has had under consideration
6 HB 1047, 1063, and 1065 and returns the same with the recommendation that said bills do pass
7 and be placed on the consent calendar.

8 Respectfully submitted,
9 Craig Tieszen, Chair

10 Also MR. PRESIDENT:

11 The Committee on Commerce and Energy respectfully reports that it has had under
12 consideration HB 1192 and returns the same with the recommendation that said bill do pass.

13 Also MR. PRESIDENT:

14 The Committee on Commerce and Energy respectfully reports that it has had under
15 consideration HB 1059, 1079, and 1121 and returns the same with the recommendation that said
16 bills do pass and be placed on the consent calendar.

17 Also MR. PRESIDENT:

18 The Committee on Commerce and Energy respectfully reports that it has had under
19 consideration HB 1227 and returns the same with the recommendation that said bill be amended
20 as follows:

21 1227jb

22 On page 2, line 7, of the House State Affairs Committee engrossed bill, after "chapter"
23 insert "from manufacturer authorized facilities in this state".

24 And that as so amended said bill do pass.

25 Respectfully submitted,
26 Tom Nelson, Chair

1 Also MR. PRESIDENT:

2 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing
3 and Enrolling has carefully compared SB 4, 9, 14, 15, 23, 32, 35, 36, 38, 45, and 50 and finds
4 the same correctly enrolled.

5 Also MR. PRESIDENT:

6 The Committee on Legislative Procedure respectfully reports that SB 33, 34, and 51 were
7 delivered to his Excellency, the Governor, for his approval at 11:30 a.m., February 16, 2012.

8 Respectfully submitted,
9 Bob Gray, Chair

10 **MESSAGES FROM THE HOUSE**

11 MR. PRESIDENT:

12 I have the honor to return herewith SB 4, 9, 14, 15, 23, 32, 35, 36, 38, 45, and 50 which
13 have passed the House without change.

14 Respectfully,
15 Karen Gerdes, Chief Clerk

16 **MOTIONS AND RESOLUTIONS**

17 SENATE PAGE RESOLUTION 3 Introduced by: Senators Adelstein; Begalka; Bradford;
18 Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen, Tom; Haverly; Heineman; Holien;
19 Hundstad; Hunhoff, Jean; Johnston; Juhnke; Kraus; Krebs; Lederman; Maher; Nelson, Tom;
20 Novstrup, Al; Nygaard; Olson, Russell; Peters; Putnam; Rampelberg; Rave; Rhoden;
21 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

22 A RESOLUTION, Expressing the appreciation and gratitude of the Senate of the Eighty-seventh
23 Legislature of the State of South Dakota to Amy Beyl, Caley Dauwen, Zane Frederick,
24 Haley Hohn, Emily Ketteler, Lucas Peterson, Thea Rave, Madeline Schueller, Shelby
25 Simon, Tessa Stoltenburg

26 WHEREAS, the above named served loyally as pages for the Senate of the Eighty-seventh
27 Legislative Session; and

28 WHEREAS, the members of the Eighty-seventh Senate express their most sincere
29 appreciation to these young people for their service to the state; and

1 WHEREAS, the members extend to these young people their wishes for every success in
2 life:

3 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Eighty-seventh Legislature
4 of the State of South Dakota, that a personal copy of this resolution be duly certified and
5 furnished to each page on this last day of service.

6 Sen. Rave moved that Senate Page Resolution 3 be adopted.

7 The question being on Sen. Rave's motion that Senate Page Resolution 3 be adopted.

8 Which motion prevailed.

9 Sen. Olson moved that HB 1018 be deferred to Tuesday, February 21, the 24th legislative
10 day.

11 Which motion prevailed.

12 Sen. Olson moved that HB 1078 be referred to the Committee on Appropriations.

13 Which motion prevailed.

14 Sen. Gray moved that HB 1228 be referred from the Committee on Taxation to the
15 Committee on State Affairs.

16 Which motion prevailed.

17 SCR 6 Introduced by: Senators Heineman, Adelstein, Buhl, Cutler, Haverly, Johnston,
18 Kraus, Krebs, Novstrup (Al), Peters, Rempelberg, and Schlekeway and Representatives Gosch,
19 Abdallah, Blake, Bolin, Boomgarden, Brunner, Carson, Conzet, Deelstra, Dryden, Feinstein,
20 Gibson, Haggard, Hansen (Jon), Hawley, Hickey, Hubbel, Hunt, Jensen, Kirkeby, Kopp, Liss,
21 Lust, Magstadt, Olson (Betty), Romkema, Rozum, Schaefer, Sly, Stricherz, Tornow, Vanneman,
22 Verchio, Wick, and Willadsen

23 A CONCURRENT RESOLUTION, Urging the government of Turkey to uphold and safeguard
24 religious and human rights and to respect the property rights and human rights of the
25 Ecumenical Patriarchate.

26 WHEREAS, the Orthodox Christian Church, in existence for nearly two thousand years,
27 numbers approximately three hundred million members worldwide, with more than two million
28 members in the United States; and

1 WHEREAS, since 1453, the continuing presence of the Ecumenical Patriarchate in Turkey
2 has been a living testament to the religious coexistence of Christians and Muslims; and

3 WHEREAS, this religious coexistence is in doubt because the Ecumenical Patriarchate is
4 considered a minority religion by the Turkish government; and

5 WHEREAS, there were millions of Orthodox Christians living in Turkey at the turn of the
6 twentieth century, but there remain fewer than three thousand in Turkey today; and

7 WHEREAS, Orthodox Christians in South Dakota and throughout the United States are
8 deeply concerned about the possible loss of their spiritual leader; and

9 WHEREAS, while there have been difficulties in the past with the relationship of the
10 Orthodox Christian Church and the Turkish government, ceratin recent actions by the Turkish
11 government suggest an interest in improving its relationship with and treatment of the Orthodox
12 Christian Church, and such actions are acknowledged and welcomed by the Christian Orthodox
13 community; and

14 WHEREAS, the people of South Dakota desire to encourage continued dialogue and
15 communication between the leadership of the Turkish government and the Orthodox Christian
16 Church, such as recent high-level meetings between Turkish officials and the Ecumenical
17 Patriarchate; and

18 WHEREAS, many state Legislatures have already expressed similar sentiments and
19 concerns in legislative resolutions; and

20 WHEREAS, eighty-nine United States Senators, including Senator John Thune and Senator
21 Tim Johnson, recently signed a letter to President Obama declaring that the restoration of
22 religious freedom and human rights for Ecumenical Patriarch Bartholomew is in the best
23 interests of people of all faiths, including those in both America and Turkey:

24 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Eighty-seventh Legislature
25 of the State of South Dakota, the House of Representatives concurring therein, that the
26 Legislature urges the government of Turkey to uphold and safeguard religious and human rights
27 of all its citizens without exception, to grant the Ecumenical Patriarch appropriate international
28 recognition, ecclesiastical succession, and the right to train clergy of all nationalities, and to
29 respect the property rights and human rights of the Ecumenical Patriarchate and all religious and
30 faith traditions.

31 Was read the first time, the President waived the referral to committee, and placed SCR 6
32 on the calendar of Tuesday, February 21, the 24th legislative day.

1 **CONSIDERATION OF REPORTS OF COMMITTEES**

2 Sen. Olson moved that the reports of the Standing Committees on
3 Health and Human Services on HB 1263 as found on page 432 of the Senate Journal; also
4 Local Government on HB 1131 as found on page 433 of the Senate Journal; also
5 State Affairs on HB 1046 as found on page 434 of the Senate Journal be adopted.
6 Which motion prevailed.

7 **SECOND READING OF CONSENT CALENDAR ITEMS**

8 Sen. Bradford requested that HB 1066 be removed from the Consent Calendar.

9 HB 1019: FOR AN ACT ENTITLED, An Act to revise the license fee for snowmobiles
10 and to revise the period of such license.

11 Was read the second time.

12 The question being "Shall HB 1019 pass?"

13 And the roll being called:

14 Yeas 32, Nays 0, Excused 3, Absent 0

15 Yeas:

16 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
17 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
18 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
19 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

20 Excused:

21 Hundstad; Krebs; Nygaard

22 So the bill having received an affirmative vote of a majority of the members-elect, the
23 President declared the bill passed and the title was agreed to.

24 HB 1032: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the
25 temporary permit for a specialty license plate with an organization or first responder decal.

1 Was read the second time.

2 The question being "Shall HB 1032 pass?"

3 And the roll being called:

4 Yeas 32, Nays 0, Excused 3, Absent 0

5 Yeas:

6 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
7 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
8 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
9 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

10 Excused:

11 Hundstad; Krebs; Nygaard

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 President declared the bill passed and the title was agreed to.

14 HB 1162: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the
15 platting and annexation of subdivisions.

16 Was read the second time.

17 The question being "Shall HB 1162 pass?"

18 And the roll being called:

19 Yeas 32, Nays 0, Excused 3, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
22 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
23 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
24 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

25 Excused:

26 Hundstad; Krebs; Nygaard

27 So the bill having received an affirmative vote of a majority of the members-elect, the
28 President declared the bill passed and the title was agreed to.

1 HB 1163: FOR AN ACT ENTITLED, An Act to allow political subdivisions of the state
2 to operate as organizations formed under § 58-18-52 for the purchase of health insurance.

3 Was read the second time.

4 The question being "Shall HB 1163 pass as amended?"

5 And the roll being called:

6 Yeas 32, Nays 0, Excused 3, Absent 0

7 Yeas:

8 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
9 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
10 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
11 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

12 Excused:

13 Hundstad; Krebs; Nygaard

14 So the bill having received an affirmative vote of a majority of the members-elect, the
15 President declared the bill passed and the title was agreed to.

16 HB 1172: FOR AN ACT ENTITLED, An Act to exempt certain developer-installed storm
17 sewer detention ponds from public procurement bid requirements.

18 Was read the second time.

19 The question being "Shall HB 1172 pass?"

20 And the roll being called:

21 Yeas 32, Nays 0, Excused 3, Absent 0

22 Yeas:

23 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
24 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
25 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
26 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

27 Excused:

28 Hundstad; Krebs; Nygaard

29 So the bill having received an affirmative vote of a majority of the members-elect, the
30 President declared the bill passed and the title was agreed to.

1 HB 1173: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
2 administration of the county legal expense relief program.

3 Was read the second time.

4 The question being "Shall HB 1173 pass?"

5 And the roll being called:

6 Yeas 32, Nays 0, Excused 3, Absent 0

7 Yeas:

8 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
9 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
10 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
11 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

12 Excused:

13 Hundstad; Krebs; Nygaard

14 So the bill having received an affirmative vote of a majority of the members-elect, the
15 President declared the bill passed and the title was agreed to.

16 HB 1233: FOR AN ACT ENTITLED, An Act to provide for the public access to the
17 records of former Governors and lieutenant governors.

18 Was read the second time.

19 The question being "Shall HB 1233 pass?"

20 And the roll being called:

21 Yeas 32, Nays 0, Excused 3, Absent 0

22 Yeas:

23 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
24 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
25 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
26 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

27 Excused:

28 Hundstad; Krebs; Nygaard

29 So the bill having received an affirmative vote of a majority of the members-elect, the
30 President declared the bill passed and the title was agreed to.

1 **SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

2 HB 1071: FOR AN ACT ENTITLED, An Act to increase the benefits that the Insurance
3 Guarantee Association may become obligated to cover for annuities, to provide for retroactive
4 application, and to declare an emergency.

5 Was read the second time.

6 Sen. Olson moved that HB 1071 be placed to follow HJR 1002 on today's calendar.

7 Which motion prevailed.

8 HB 1031: FOR AN ACT ENTITLED, An Act to establish a license fee and a renewal fee
9 for carriers licensing under the International Fuel Tax Agreement, to establish a decal fee and
10 a mailing fee, and to provide for the disposition of the fees.

11 Was read the second time.

12 The question being "Shall HB 1031 pass as amended?"

13 And the roll being called:

14 Yeas 32, Nays 0, Excused 3, Absent 0

15 Yeas:

16 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
17 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
18 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
19 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

20 Excused:

21 Hundstad; Krebs; Nygaard

22 So the bill having received an affirmative vote of a two-thirds majority of the members-
23 elect, the President declared the bill passed and the title was agreed to.

24 HB 1116: FOR AN ACT ENTITLED, An Act to exempt bedding used for agricultural
25 purposes from sales and use taxes.

26 Was read the second time.

1 The question being "Shall HB 1116 pass as amended?"

2 And the roll being called:

3 Yeas 24, Nays 8, Excused 3, Absent 0

4 Yeas:

5 Begalka; Bradford; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom); Haverly; Holien;
6 Hunhoff (Jean); Johnston; Kraus; Lederman; Maher; Nelson (Tom); Putnam; Rave; Rhoden;
7 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

8 Nays:

9 Adelstein; Brown; Heineman; Juhnke; Novstrup (Al); Olson (Russell); Peters; Rampelberg

10 Excused:

11 Hundstad; Krebs; Nygaard

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 President declared the bill passed and the title was agreed to.

14 HJR 1002: A JOINT RESOLUTION, To propose a constitutional amendment to repeal
15 certain reimbursement restrictions for travel by legislators to and from a legislative session.

16 Was read the second time.

17 The question being "Shall HJR 1002 pass?"

18 And the roll being called:

19 Yeas 25, Nays 7, Excused 3, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Buhl; Cutler; Frerichs; Fryslie; Hansen (Tom); Haverly;
22 Heineman; Hunhoff (Jean); Kraus; Lederman; Maher; Nelson (Tom); Novstrup (Al); Peters;
23 Rampelberg; Rave; Rhoden; Schlekeway; Sutton; Tidemann; Tieszen; Vehle

24 Nays:

25 Brown; Gray; Holien; Johnston; Juhnke; Olson (Russell); Putnam

26 Excused:

27 Hundstad; Krebs; Nygaard

28 So the resolution having received an affirmative vote of a majority of the members-elect,
29 the President declared the resolution passed and the title was agreed to.

1 HB 1071: FOR AN ACT ENTITLED, An Act to increase the benefits that the Insurance
2 Guarantee Association may become obligated to cover for annuities, to provide for retroactive
3 application, and to declare an emergency.

4 Having had its second reading was up for consideration and final passage.

5 The question being "Shall HB 1071 pass as amended?"

6 And the roll being called:

7 Yeas 32, Nays 0, Excused 3, Absent 0

8 Yeas:

9 Adelstein; Begalka; Bradford; Brown; Buhl; Cutler; Frerichs; Fryslie; Gray; Hansen (Tom);
10 Haverly; Heineman; Holien; Hunhoff (Jean); Johnston; Juhnke; Kraus; Lederman; Maher;
11 Nelson (Tom); Novstrup (Al); Olson (Russell); Peters; Putnam; Rampelberg; Rave; Rhoden;
12 Schlekeway; Sutton; Tidemann; Tieszen; Vehle

13 Excused:

14 Hundstad; Krebs; Nygaard

15 So the bill having received an affirmative vote of a two-thirds majority of the members-
16 elect, the President declared the bill passed and the title was agreed to.

17 SIGNING OF BILLS

18 The President publicly read the title to

19 SB 4: FOR AN ACT ENTITLED, An Act to make an appropriation to continue the
20 veterans' bonus program and to declare an emergency.

21 SB 9: FOR AN ACT ENTITLED, An Act to make an appropriation to reimburse certain
22 family physicians and dentists who have complied with the requirements of the physician tuition
23 reimbursement program and dental tuition reimbursement program and to declare an emergency.

24 SB 14: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding alcohol
25 or drug commitments.

26 SB 15: FOR AN ACT ENTITLED, An Act to revise certain provisions related to the
27 treatment of persons with mental illness, including consent to treatment.

28 SB 23: FOR AN ACT ENTITLED, An Act to place certain substances on the controlled
29 substances schedule and to declare an emergency.

SB 32: FOR AN ACT ENTITLED, An Act to revise the suitability requirements for annuities.

SB 35: FOR AN ACT ENTITLED, An Act to update certain citations to federal regulations and increase certain civil penalties regarding pipeline safety inspection.

SB 36: FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to suppression of wildfires in the state and to declare an emergency.

SB 38: FOR AN ACT ENTITLED, An Act to provide for the transfer of control of an office building in Rapid City, to make an appropriation for the construction and renovation of the office building, and to declare an emergency.

SB 45: FOR AN ACT ENTITLED, An Act to appropriate additional funds and to extend the availability of appropriations to replace storage facilities at the Cottonwood Agricultural Experiment Station.

SB 50: FOR AN ACT ENTITLED, An Act to revise the permissible uses of the cigarette fire safety standard act fund.

HB 1042: FOR AN ACT ENTITLED, An Act to repeal certain obsolete statutes relating to the State Cement Plant Commission.

HB 1043: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding the full-time equivalent staffing report.

And signed the same in the presence of the Senate.

COMMEMORATIONS

SC 12 Introduced by: Senators Rhoden, Maher, and Nelson (Tom) and Representatives Brunner, Olson (Betty), Romkema, Turbiville, and Wink

A LEGISLATIVE COMMEMORATION, Congratulating the Belle Fourche Area Community Center in Belle Fourche, South Dakota, for twenty years of service to the community.

WHEREAS, the Belle Fourche Area Community Center has been dedicated to enhancing the quality of life in the community for its citizens by providing recreational, cultural, and civic activities for the diverse population of the tri-state area; and

WHEREAS, the Belle Fourche Area Community Center is a city-owned and financed facility dedicated to serving the needs of the community by improving the quality of life for all; and

1 WHEREAS, the Belle Fourche Area Community Center offers an impressive variety of
2 adult, youth, and senior programming and events to address the needs of the community,
3 including an after school program and summer school program; and

4 WHEREAS, the Belle Fourche Area Community Center serves as a gathering place for the
5 community to work together to address the many needs of the citizens and as an emergency
6 sheltering facility in times of need; and

7 WHEREAS, the Belle Fourche Area Community Center will be celebrating twenty years of
8 service to the community with the Grand Twentieth Anniversary Weekend Celebration on
9 June 8, 9, and 10, 2012, which is the anniversary of the grand opening weekend in 1992:

10 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of
11 the State of South Dakota, that the Belle Fourche Area Community Center be recognized as it
12 celebrates twenty years of service.

13 Sen. Rampelberg moved that the Senate do now adjourn, which motion prevailed and at
14 1:50 p.m. the Senate adjourned.

15 Fee Jacobsen, Secretary